

James R. Condo (#005867)
SNELL & WILMER L.L.P.
One Arizona Center
400 E. Van Buren
Phoenix, AZ 85004-2204
Telephone: (602) 382-6000
jcondo@swlaw.com

Richard B. North, Jr. (admitted *pro hac vice*)
Georgia Bar No. 545599
Matthew B. Lerner (admitted *pro hac vice*)
Georgia Bar No. 446986
NELSON MULLINS RILEY & SCARBOROUGH LLP
Atlantic Station
201 17th Street, NW, Suite 1700
Atlanta, GA 30363
Telephone: (404) 322-6000
richard.north@nelsonmullins.com
matthew.lerner@nelsonmullins.com

Attorneys for Defendants
C. R. Bard, Inc. and
Bard Peripheral Vascular, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

IN RE: Bard IVC Filters Products Liability MDL NO. 15-02641-PHX-DGC
Litigation

This Document Relates to:

JIMMY PHILLIPS, an individual,

Plaintiff,

v.

Case No. 2:17-CV-01154-DGC

C. R. BARD, INC., a New Jersey
Corporation; AND BARD PERIPHERAL
VASCULAR INC., (a subsidiary and/or
Division of Defendant C. R. BARD, INC.)
an Arizona Corporation,

**DEFENDANTS' MOTION TO
DISMISS THE PLAINTIFF'S
COMPLAINT**

Defendants.

Defendants C. R. Bard, Inc. and Bard Peripheral Vascular, Inc. (collectively, "Bard")
hereby move to dismiss the plaintiff's Complaint (the "Complaint") pursuant to Federal Rule

1 of Civil Procedure 12(b). At the time the Complaint was filed on behalf of Plaintiff Jimmy
 2 Phillips, in his individual capacity, for his alleged personal injuries, he was already deceased.
 3 As the Court has previously held,¹ a deceased party cannot be a party to a legal action and, as
 4 a result, the Complaint is a legal nullity and the Court has no jurisdiction over it. Defendants
 5 therefore respectfully request that the Court dismiss the Complaint with prejudice.

6 The arguments in support of this motion to dismiss are set forth in the accompanying
 7 memorandum of law, which is incorporated herein by reference.

8 This 12th day of December, 2019.

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 10 s/Richard B. North, Jr.

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 Matthew B. Lerner
 Georgia Bar No. 446986
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 201 17th Street, NW / Suite 1700
 Atlanta, GA 30363
 PH: (404) 322-6000
 FX: (404) 322-6050
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 21 **Attorneys for Defendants C. R. Bard, Inc. and**
Bard Peripheral Vascular, Inc.

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 28 ¹ *In re: Bard IVC Filters Prod. Liab. Litig.*, No. 2641, 2016 WL 3055112, at *1 (D. Ariz. May 31, 2016), *appeal dismissed* (July 15, 2016).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 12, 2019, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send notification of such filing to all counsel of record.

s/Richard B. North, Jr.
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